

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

DARRYL W. HUDSON,  
Plaintiff,  
v.  
C. PFEIFFER, et al.,  
Defendants.

Case No. 1:22-cv-01313-EPG (PC)

FINDINGS AND RECOMMENDATIONS,  
RECOMMENDING THAT THIS ACTION  
BE DISMISSED

(ECF No. 1)

OBJECTIONS, IF ANY, DUE WITHIN  
TWENTY-ONE DAYS

ORDER DIRECTING CLERK TO ASSIGN  
DISTRICT JUDGE

Darryl W. Hudson (“Plaintiff”) is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action filed pursuant to 42 U.S.C. § 1983. Plaintiff filed the complaint commencing this action on October 3, 2022. (ECF No. 1). The complaint is now before this Court for screening. In his complaint, Plaintiff challenges the validity of a Rules Violation Report (“RVR”) he received for possession of a deadly weapon. As a result of the RVR, Plaintiff lost 360 days of credits.

As it appeared that Plaintiff is challenging an RVR, Plaintiff lost good time credits because of that RVR, and the only relief Plaintiff is seeking is to have the guilty finding reversed and the RVR removed from his central file, it appeared that Plaintiff’s claims should

1 have been raised in a petition for a writ of habeas corpus, rather than this section 1983 action.  
2 Accordingly, the Court provided Plaintiff with standards related to the favorable termination  
3 rule and gave Plaintiff an opportunity to voluntarily dismiss this action. (ECF No. 7).  
4 Plaintiff's deadline passed, and Plaintiff did not voluntarily dismiss this action.

5 Accordingly, the Court has reviewed Plaintiff's complaint and finds that this action is  
6 barred by the favorable termination rule. Therefore, the Court will recommend that this action  
7 be dismissed, without prejudice to Plaintiff filing a petition for a writ of habeas corpus.

8 Plaintiff has twenty-one days from the date of service of these findings and  
9 recommendations to file his objections.

#### 10 **I. SCREENING REQUIREMENT**

11 The Court is required to screen complaints brought by prisoners seeking relief against a  
12 governmental entity or officer or employee of a governmental entity. 28 U.S.C. § 1915A(a).  
13 The Court must dismiss a complaint or portion thereof if the prisoner has raised claims that are  
14 legally "frivolous or malicious," that fail to state a claim upon which relief may be granted, or  
15 that seek monetary relief from a defendant who is immune from such relief. 28 U.S.C.  
16 § 1915A(b)(1), (2). As Plaintiff is proceeding *in forma pauperis* (ECF No. 8), the Court may  
17 also screen the complaint under 28 U.S.C. § 1915. "Notwithstanding any filing fee, or any  
18 portion thereof, that may have been paid, the court shall dismiss the case at any time if the court  
19 determines that the action or appeal fails to state a claim upon which relief may be granted."  
20 28 U.S.C. § 1915(e)(2)(B)(ii).

21 A complaint is required to contain "a short and plain statement of the claim showing  
22 that the pleader is entitled to relief." Fed. R. Civ. P. 8(a)(2). Detailed factual allegations are  
23 not required, but "[t]hreadbare recitals of the elements of a cause of action, supported by mere  
24 conclusory statements, do not suffice." Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009) (citing Bell  
25 Atlantic Corp. v. Twombly, 550 U.S. 544, 555 (2007)). A plaintiff must set forth "sufficient  
26 factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" Id.  
27 (quoting Twombly, 550 U.S. at 570). The mere possibility of misconduct falls short of meeting  
28 this plausibility standard. Id. at 679. While a plaintiff's allegations are taken as true, courts

“are not required to indulge unwarranted inferences.” Doe I v. Wal-Mart Stores, Inc., 572 F.3d 677, 681 (9th Cir. 2009) (citation and internal quotation marks omitted). Additionally, a plaintiff’s legal conclusions are not accepted as true. Iqbal, 556 U.S. at 678.

Pleadings of *pro se* plaintiffs “must be held to less stringent standards than formal pleadings drafted by lawyers.” Hebbe v. Pliler, 627 F.3d 338, 342 (9th Cir. 2010) (holding that *pro se* complaints should continue to be liberally construed after Iqbal).

## **II. SUMMARY OF PLAINTIFF’S COMPLAINT**

Plaintiff alleges as follows:

The incident occurred at Kern Valley State Prison.

On February 16, 2021, Plaintiff’s cell was searched and officers found a cell phone and a deadly weapon. The weapon was found under the mattress of Plaintiff’s cellmate. Plaintiff’s cellmate, inmate Bonner, told defendant Chavez, a correctional officer, that it was his weapon and that Plaintiff had no knowledge of it.

Plaintiff had his investigative employee ask inmate Bonner questions like, “was it [Plaintiff’s] weapon?” and “[d]id Plaintiff have knowledge?” The response to both was “no.”

However, Plaintiff was found guilty by defendant Lambo, a correctional lieutenant, because defendant Lambo said that under a mattress is a common area. Plaintiff does not believe that a mattress is a common area, or that it is his job to police his cellmate.

Defendant Chavez violated Plaintiff’s rights because inmate Bonner told defendant Chavez the weapon was his, but this was nowhere in defendant Chavez’s report. Plaintiff asked him why it was not in the report, and he said he is “not no SNITCH.” If defendant Chavez would have put inmate Bonner’s statement in the report, Plaintiff would have been found not guilty.

Defendant Pfeiffer, the Warden, failed to properly train defendant Chavez.

Defendant Lambo found Plaintiff guilty even though inmate Bonner said it was his weapon and that Plaintiff had no knowledge of it.

Plaintiff attached portions of the RVR to his complaint. (ECF No. 1, pgs. 12-22). According to the RVR, Plaintiff lost 360 days of credits. (Id. at 13). The only relief Plaintiff

1 seeks is to have his “RVR Reversed from Guilty to Not Guilty” and to have the RVR removed  
 2 from his central file. (Id. at 6).

### 3 **III. ANALYSIS OF PLAINTIFF’S COMPLAINT**

#### 4 **A. Section 1983**

5 The Civil Rights Act under which this action was filed provides:

6 Every person who, under color of any statute, ordinance, regulation, custom, or  
 7 usage, of any State or Territory or the District of Columbia, subjects, or causes  
 8 to be subjected, any citizen of the United States or other person within the  
 9 jurisdiction thereof to the deprivation of any rights, privileges, or immunities  
 secured by the Constitution and laws, shall be liable to the party injured in an  
 action at law, suit in equity, or other proper proceeding for redress....

10 42 U.S.C. § 1983. “[Section] 1983 ‘is not itself a source of substantive rights,’ but merely  
 11 provides ‘a method for vindicating federal rights elsewhere conferred.’” Graham v. Connor,  
 12 490 U.S. 386, 393-94 (1989) (quoting Baker v. McCollan, 443 U.S. 137, 144 n.3 (1979)); see  
 13 also Chapman v. Houston Welfare Rights Org., 441 U.S. 600, 618 (1979); Hall v. City of Los  
 14 Angeles, 697 F.3d 1059, 1068 (9th Cir. 2012); Crowley v. Nevada, 678 F.3d 730, 734 (9th Cir.  
 15 2012); Anderson v. Warner, 451 F.3d 1063, 1067 (9th Cir. 2006).

16 To state a claim under section 1983, a plaintiff must allege that (1) the defendant acted  
 17 under color of state law, and (2) the defendant deprived him of rights secured by the  
 18 Constitution or federal law. Long v. County of Los Angeles, 442 F.3d 1178, 1185 (9th Cir.  
 19 2006); see also Marsh v. County of San Diego, 680 F.3d 1148, 1158 (9th Cir. 2012) (discussing  
 20 “under color of state law”). A person deprives another of a constitutional right, “within the  
 21 meaning of § 1983, ‘if he does an affirmative act, participates in another’s affirmative act, or  
 22 omits to perform an act which he is legally required to do that causes the deprivation of which  
 23 complaint is made.’” Preschooler II v. Clark County Sch. Bd. of Trs., 479 F.3d 1175, 1183  
 24 (9th Cir. 2007) (quoting Johnson v. Duffy, 588 F.2d 740, 743 (9th Cir. 1978)). “The requisite  
 25 causal connection may be established when an official sets in motion a ‘series of acts by others  
 26 which the actor knows or reasonably should know would cause others to inflict’ constitutional  
 27 harms.” Preschooler II, 479 F.3d at 1183 (quoting Johnson, 588 F.2d at 743). This standard of  
 28 causation “closely resembles the standard ‘foreseeability’ formulation of proximate cause.”

1 Arnold v. Int'l Bus. Mach. Corp., 637 F.2d 1350, 1355 (9th Cir. 1981); see also Harper v. City  
 2 of Los Angeles, 533 F.3d 1010, 1026 (9th Cir. 2008).

3 A plaintiff must demonstrate that each named defendant personally participated in the  
 4 deprivation of his rights. Iqbal, 556 U.S. at 676-77. In other words, there must be an actual  
 5 connection or link between the actions of the defendants and the deprivation alleged to have  
 6 been suffered by the plaintiff. See Monell v. Dep't of Soc. Servs. of City of N.Y., 436 U.S.  
 7 658, 691, 695 (1978).

8 B. Favorable Termination Rule

9 “[A] prisoner in state custody cannot use a § 1983 action to challenge the fact or  
 10 duration of his confinement. He must seek federal habeas corpus relief (or appropriate state  
 11 relief) instead.” Wilkinson v. Dotson, 544 U.S. 74, 78 (2005) (citations and internal quotation  
 12 marks omitted).

13 In Heck v. Humphrey, 512 U.S. 477, 486-87 (1994), the United States Supreme Court  
 14 held that to recover damages for “harm caused by actions whose unlawfulness would render a  
 15 conviction or sentence invalid,” a § 1983 plaintiff must prove that the conviction or sentence  
 16 was reversed, expunged, or otherwise invalidated. This “favorable termination rule” preserves  
 17 the rule that federal challenges, which, if successful, would necessarily imply the invalidity of  
 18 confinement or its duration, must be brought by way of petition for writ of habeas corpus, after  
 19 exhausting appropriate avenues of relief. Muhammad v. Close, 540 U.S. 749, 750-751 (2004).  
 20 Accordingly, “a state prisoner’s § 1983 action is barred (absent prior invalidation)—no matter  
 21 the relief sought (damages or equitable relief), no matter the target of the prisoner’s suit (state  
 22 conduct leading to conviction or internal prison proceedings)—if success in that action would  
 23 necessarily demonstrate the invalidity of confinement or its duration.” Wilkinson, 544 U.S. at  
 24 81-82. The Supreme Court extended the favorable termination rule to prison disciplinary  
 25 proceedings. Preiser v. Rodriguez, 411 U.S. 475, 487 (1973); Nettles v. Grounds, 830 F.3d  
 26 922, 927-29 (9th Cir. 2016).

27 The Court finds that, based on the face of the complaint, Plaintiff’s claim is barred by  
 28 the favorable termination rule. Plaintiff is directly challenging the validity of an RVR for

1 possession of a deadly weapon. As a result of this RVR, Plaintiff lost 360 days of credits. The  
2 only relief Plaintiff seeks is to have his “RVR Reversed from Guilty to Not Guilty” and to have  
3 the RVR removed from his central file. (Id. at 6).

4 As Plaintiff is directly challenging the validity of an RVR that resulted in the loss of  
5 credits, success in this action would necessarily demonstrate the invalidity of Plaintiff’s  
6 confinement or its duration. Accordingly, the Court finds that this action is barred by the  
7 favorable termination rule.

#### 8 **IV. RECOMMENDATIONS AND ORDER**

9 The Court recommends that this action be dismissed without granting Plaintiff further  
10 leave to amend. As described above, success in this action would necessarily demonstrate the  
11 invalidity of Plaintiff’s confinement or its duration. Thus, this action is barred by the favorable  
12 termination rule and leave to amend would be futile.<sup>1</sup>

13 Accordingly, the Court HEREBY RECOMMENDS that:

- 14 1. This action be dismissed, without prejudice to Plaintiff filing a petition for a writ  
15 of habeas corpus, as barred by the favorable termination rule; and
- 16 2. The Clerk of Court be directed to close this case.

17 These findings and recommendations will be submitted to the United States district  
18 judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within  
19 twenty-one (21) days after being served with these findings and recommendations, Plaintiff  
20 may file written objections with the Court. The document should be captioned “Objections to  
21 Magistrate Judge’s Findings and Recommendations.” Plaintiff is advised that failure to file  
22 objections within the specified time may result in the waiver of rights on appeal. Wilkerson v.  
23 Wheeler, 772 F.3d 834, 838-39 (9th Cir. 2014) (citing Baxter v. Sullivan, 923 F.2d 1391, 1394  
24 (9th Cir. 1991)).

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28 <sup>1</sup> If Plaintiff believes the punishment for the RVR did not affect the duration of his sentence, including if  
he is serving an indeterminate sentence, he may file objections to these findings and recommendations explaining  
that position.

IT IS SO ORDERED.

/s/ Eric P. Grogg  
UNITED STATES MAGISTRATE JUDGE